IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 10069 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KIRTIBHAI MAGANLAL THAKKER

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 10069 of 2003

MR ANKUR Y OZA for Petitioner No. 1-3

MR KT DAVE, APP for Respondent No. 1

MR TS NANAVATI for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 23/12/2003

ORAL JUDGEMENT

Rule. Service of rule is waives by Mr. K.T. Dave, Ld. APP for the opponent no. 1 and Mr. T.S.

Nanavati, learned advocate for opponent no. 2. At the instance of the learned advocates for the parties the matter is taken up for final hearing today.

2. This application has been filed under the provisions of section 482 of the Code of Criminal Procedure for quashing the proceedings of Criminal Case No. 1050 of 2003 pending on the file of Ld. Judicial Magistrate First Class at Viramgam.

3. The said prosecution is for the alleged commission of offences punishable under sections 406, 420, 409 and 114 of the Indian Penal Code by the applicant. Today at the time of hearing Mr. Ankur Oza, learned advocate appearing for the applicant and Mr. T.S. Nanavati, learned advocate appearing for the original complainant i.e. opponent no. 2 herein, state before this Court that the parties have amicably settled the dispute between them as can be seen from Annexure-B of the compilation of this application. Annexure-B shows that the parties have amicably settled their disputes outside the Court and no further criminal proceedings or civil proceedings are contemplated to be initiated against applicant.

4. In view of the aforesaid development, it clearly appears that even if the trial is allowed to proceed, it is bound to result into acquittal of the present applicant. If the acquittal is the inevitable result of the trial, there is no point in allowing the trial to proceed further as has been laid down by this Court as well as Apex Court in the decision rendered in the case of B.S. Joshi v/s. State of Haryana reported in (2003) 4 S.C.C. at page 675. It is, therefore, ordered that the proceedings of Criminal Case No. 1050 of 2003 are hereby quashed.

The learned counsels for the parties also bring to my notice the order passed by the Ld. Magistrate in respect of the Muddamal 150 cotton bales, which are ordered to be returned to Arvind Mills upon furnishing of the security of Rs.13.50 lacs. The said order is at page 18 and the operative portion is at page 20. However, in view of the fact that the main proceedings are quashed, none of the conditions enumerated in the operative portion of the said order will not be required to be complied with. In view of this, now the said cotton bales will be handed over to Mr. Shatishkumar Gajanand Dalal, Manager, Arvind Mills.

The application is accordingly allowed. Rule

made absolute. D.S. permitted.

[AKSHAY H. MEHTA, J.]

* Pansala.